Simon v. Adzilla, Inc [New Media] et al
Doc. 137 Att. 15

EXHIBIT V-8

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(ENDORSED)
FILED
MAY 24 2006
KIRI TORRE
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY LHA DEPUTY

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Attorneys for Defendants
Cameron Winklevoss, Tyler
Winklevoss, Howard Winklevoss,
and Divya Narendra

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

THE FACEBOOK, INC.

Plaintiff,

v.

CONNECTU LLC, CAMERON WINKLEVOSS, TYLER WINKLEVOSS, HOWARD WINKLEVOSS, DIVYA NARENDRA, AND DOES 1-25,

Defendants.

CASE NO. 105 CV 047381

SUPPLEMENTAL DECLARATION OF SCOTT R. MOSKO IN SUPPORT OF DEFENDANTS' REPLY TO OPPOSITION TO MOTION TO QUASH SERVICE OF COMPLAINT AND SUMMONS FOR LACK OF PERSONAL JURISDICTION

Date: June 1, 2006
Time: 9:00 a.m.
Dept. 2
Judge: William J. Elfving

I Scott R. Mosko declare,

1. I am an attorney duly licensed to practice law in the state of California and am a member of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, attorneys of record for Cameron Winklevoss, Howard Winklevoss, Tyler Winklevoss, and Divya Narendra. If called to testify I would and could testify competently to the following matters.

2. On September 2, 2004, ConnectU LLC filed a complaint against The Facebook, Inc. and others in the District Court of Massachusetts, referred to in this declaration as "The Massachusetts Action". A true and correct copy of this complaint is attached as Exhibit A.

3. In the course of The Massachusetts Action, ConnectU LLC propounded discovery requests on the defendants. Defendants in the Massachusetts action served documents in response to these requests. The parties through their counsel in this case have agreed that discovery occurring in the Massachusetts case will be deemed discovery in this case. Attached as Exhibit B is a document entitled "Bylaws of TheFacebook, Inc., which comprises of bates stamped pages FACE002103 - FACE002126. Exhibit B was served by Defendants in response to a discovery request propounded in The Massachusetts Action.

4. Attached as Exhibit C is a document entitled "State of California Secretary of State Certificate of Qualification", which comprises of bates stamped pages TFB000062 - TFB000064. Exhibit C was served by Defendants in response to a discovery request propounded in The Massachusetts Action.

5. In the course of The Massachusetts Action, ConnectU served a discovery subpoena on third parties, including a New York entity referred to as Savvy Networks. Attached as Exhibit D are a series of documents, including those entitled "TheBunker powered by SavvyNetworks SavvySpace Internet Data Center Dedicated Server and Colocation Order form and Colocation Service Agreement. Exhibit D comprises of bates stamped pages SAVVY 000105 - SAVVY000132. Exhibit D was served by Savvy Networks Defendants in response to a subpoena propounded by ConnectU LLC in The Massachusetts Action.

6. Attached as Exhibit E is a copy of an email sent from register.com to Mark Zuckerberg, which comprises of bates stamped pages FACE002492 - FACE 002493. Exhibit E was served by Defendants in response to a discovery request propounded in The Massachusetts Action.

7. Attached as Exhibit F is a copy of two emails, one from Mark Zuckerberg to Arthur Cerrati. Exhibit F has a bates stamp number of SAVVY 000047. Exhibit F was served by Savvy Networks Defendants in response to a subpoena propounded by ConnectU LLC in The Massachusetts Action.

8. Attached as Exhibit G is a document entitled "Equinix Master Service Agreement", which comprises of bates stamped pages FACE00227 - FACE002233. Exhibit G was served by Defendants in response to a discovery request propounded in The Massachusetts Action.

9. On April 25, 2006 I took the deposition of Mark Zuckerberg. Attached as Exhibit H are true and correct copies of certain pages of the transcript of this deposition.

10. The subpoena issued to Savvy Networks, and referred to in paragraph 4 of this declaration sought all documents concerning thefacebook.com website, including correspondence from representatives of TheFacebook, Inc. Savvy Networks produced documents in response to this subpoena. The only address provided on these documents for Mark Zuckerberg was 2 Russell Place Dobbs Ferry, NY 10522.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct and that this declaration was executed on the 24 day of May, 2006.

[signature]
Scott R. Mosko